

07/27/01
JC525 U.S. PTO

Attorney's Docket No. 1146-4 DIV/CIP 2

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Box: PATENT APPLICATION

Commissioner for Patents
Washington, D.C. 20231

j1046 U.S. PTO
09/916858
07/27/01

NONPROVISIONAL PATENT APPLICATION TRANSMITTAL

Sir:

Transmitted herewith for filing is the patent application of:

First Named Inventor (or Inventors):

SHULTS, Mark C.
UPDIKE, Stuart J.
RHODES, Rathbun K.
GILLIGAN, Barbara J.
TAPSAK, Mark A.

Title of Application: **DEVICE AND METHOD FOR DETERMINING ANALYTE LEVELS**

1. Type of Application (37 C.F.R. 1.53(b))

This application is a(n):

Original (nonprovisional) application.
 Continuing application:
 Divisional Continuation Continuation-in-Part (CIP)

of Serial No. 09/447,227, filed on November 22, 1999, which is a Divisional of
Serial No. 08/811,473, filed on March 4, 1997, now U.S. Patent No. 6,001,067.

CERTIFICATION UNDER 37 C.F.R. 1.10

I hereby certify that this New Application Transmittal and the documents referred to as enclosed herein are being deposited with the United States Postal Service on this date, July 27, 2001, in an envelope as "Express Mail to Addressee" Mailing Label Number ET190224072US, addressed to the Commissioner of Patents and Trademarks, Washington, D.C. 20231.

Kathleen J. Goodhand
Name of person mailing paper

Kathleen J. Goodhand
Signature of person mailing paper

2. **Benefit of Prior U.S. Application(s) (35 U.S.C. 119(e), 120, or 121)**

This new application claims the benefit of prior U.S. application(s).

Please amend the specification by inserting, before the first line, the following:

"This application claims the benefit of U.S. Provisional Application No. _____, filed on _____."

"This application is a
 continuation of co-pending application
 continuation-in-part
 divisional of copending application
 Serial No. _____, filed on _____,
 International Application No. _____, filed on _____, and which designated the U.S."

A Preliminary Amendment is enclosed amending this application to state the relation of this application to prior applications.

The relation of this application to prior applications is stated in the application.

3. **35 U.S.C. 119(a)-(d) or 35 U.S.C. 365(a)-(b) Foreign Priority Claim for Prior Application**

This application, and prior U.S. application(s), including any prior International Application designating the U.S., identified above in item 2, claim(s) priority from one or more foreign applications as follows:

(Country)	(Application No.)	(Filing Date) (mm/dd/yyyy)

Certified copy(ies) of the application(s) from which priority under 35 U.S.C. 119 is claimed:

has(have) been filed on _____, in prior application _____, which was filed on _____.

is (are) enclosed.

will follow.

4. Enclosed Papers Required to Obtain Application Filing Date under 37 C.F.R. 1.53(b)

42 Pages of Specification
7 Pages of Claims
1 Pages of Abstract
7 Sheets of Drawings

Formal Informal

5. Oath or Declaration

- Newly executed Oath or Declaration (original or copy) is enclosed.
- Copy of Oath or Declaration from prior application _____ (37 C.F.R. 1.63(d)).
- The entire disclosure of the prior application, from which a copy of the oath or Declaration is supplied, is considered as being a part of the disclosure of the accompanying application and is hereby incorporated by reference therein.
- A Power of Attorney is included in the Oath or Declaration.
- Not enclosed.

6. Additional Papers Enclosed

- Return Receipt Postcard (specifically itemized) (M.P.E.P. § 503).
- Application Data Sheet (Voluntary under 37 C.F.R. 1.76).
- Preliminary Amendment.
- Information Disclosure Statement (37 C.F.R. 1.98).
 - Form PTO-1449
 - Copies of IDS Citations
- Nucleotide and/or Amino Acid Sequence Listing computer-readable copy, paper copy, and statement verifying identity of computer-readable and paper copies.
- Certified Copy of Priority Document(s).
- Verified translation of non-English language application (37 C.F.R. 1.52(d)).
- Other: _____.

7. **Assignment**

An assignment of the invention to Dexcom, Inc.

is enclosed. A separate:

"Cover Sheet for Assignment (Document) Accompanying New Patent Application" is enclosed.

Form PTO-1595 is enclosed.

was made in prior application No. _____, filed on _____.

A copy of the assignment (and any recordation cover sheet) is enclosed.

will follow.

Not enclosed.

8. **Request That Application Not Be Published Pursuant to 35 U.S.C. 122(b)(2)**

Pursuant to 35 U.S.C. 122(b)(2), Applicant(s) hereby requests that this patent application not be published pursuant to 35 U.S.C. 122(b)(1). Applicant hereby certifies that the invention disclosed in this application has not and will not be the subject of an application filed in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing of the application.

Warning

An applicant who makes a request not to publish, but who subsequently files in a foreign country or under a multilateral international agreement specified in 35 U.S.C. 122(b)(2)(B)(i), must notify the Director of such filing not later than 45 days after the date of the filing of such foreign or international application. A failure of the applicant to provide such notice within the prescribed period shall result in the application being regarded as abandoned, unless it is shown to the satisfaction of the Director that the delay in submitting the notice was unintentional.

9. **Maintenance of Copendency of Prior Application**

[] A Petition for Extension of Time and the appropriate fee has been filed and extends the term in the pending prior application until _____.

[] A copy of the petition filed in the prior application is attached.

[] A conditional petition for extension of time is being filed in the pending prior application.

[] A copy of the conditional petition in the prior application is attached.

10. Abandonment of Prior Application

Please abandon the prior application at a time while the prior application is pending, or when the petition for extension of time or to revive in that application is granted, and when this application is granted a filing date, so as to make this application copending with said prior application.

11. Fee Calculation (37 C.F.R. 1.16)

Utility Application (37 C.F.R. 1.16(a)) Basic Fee \$710.00

FEES FOR CLAIMS AS FILED

Number filed	Number extra	Rate	
Total Claims (37 C.F.R. 1.16 (c))	43 - 20	= 23	x \$ 18.00 = \$ 414.00
Independent Claims (37 C.F.R. 1.16(b))	3 - 3	= 0	x \$ 80.00 = \$ 0
Multiple Dependent Claims (37 C.F.R. 1.16(d))	1	+ \$ 270.00	= \$ 270.00
Fee Calculation for Extra Claims			\$ 684 .00

Amendment canceling extra claims enclosed.

Amendment deleting multiple-dependencies enclosed.

Total Filing Fee Calculation \$ 1394.00

12. Small Entity Statement

Small entity status is claimed under 37 C.F.R. 1.27.

Filing Fee Calculation (50% of Filing Fee calculated in Item 9 above) \$ 697.00

13. Fee Payment

Not enclosed. No filing fee is to be paid at this time.

Enclosed:

<input checked="" type="checkbox"/>	Basic filing fee (Item 9 or 10 above)	\$ <u>697.00</u>
<input type="checkbox"/>	Fee for recording Assignment \$40.00 (37 C.F.R. 1.21(h))	\$
<input type="checkbox"/>	Processing and retention fee \$130.00 (37 C.F.R. 1.53(d) and 1.21(l))	\$
	Total fees enclosed	\$ <u>697.00</u>

14. Method of Payment of Fees

Check in the amount of \$ 697.00.

Charge Deposit Account No. _____ in the amount of \$ _____.
A duplicate of this transmittal is enclosed.

15. Authorization to Charge Additional Fees

The Commissioner is hereby authorized to charge the following additional fees by this paper and during the entire pendency of this application to Deposit Account No. 08-2461:

37 C.F.R. 1.16(a), (f), or (g) (filing fees)

37 C.F.R. 1.16(b), (c), and (d) (presentation of extra claims)

37 C.F.R. 1.16(e) (surcharge for filing the basic fee and/or declaration at a date later than the filing date of the application)

37 C.F.R. 1.17 (application processing fees)

A duplicate of this transmittal is enclosed.

16. Instructions as to Overpayment

Credit Deposit Account 08-2461. Refund.

17. Correspondence Address

Please address all correspondence to:

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Syosset, New York 11791

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